

1 IN THE UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF VIRGINIA

3 HARRISONBURG DIVISION

4 _____
5 WYNN'S EXTENDED CARE, INC.,)
6 Plaintiff and Counter-Defendant,)Case Number
7 v.)5:13-cv-00114
8 PENNY L. BRADLEY,)
9 Defendant and Counter-Plaintiff.)
10 _____

11
12 Deposition of 30(B)(6) CORPORATE
13 REPRESENTATIVE OF ARMSTRONG AUTO SALES, INC.

14 BY TRAVIS W. ARMSTRONG

15 Harrisonburg, Virginia

16 Wednesday, September 3, 2014

17 9:15 a.m.

18 Pages 1 - 165

19 Reported by: Karen L. Hart, RMR, CRR
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21
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23
24
25

1 Deposition of TRAVIS W. ARMSTRONG held at
2 the law offices of:

3
4
5 BotkinRose, PLC
6 3190 Peoples Drive
7 Harrisonburg, Virginia 22801
8 (540) 437-0019
9

10
11 Pursuant to Notice before Karen L. Hart,
12 Registered Merit Reporter, Certified Realtime
13 Reporter, and Notary Public for the Commonwealth of
14 Virginia.
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A P P E A R A N C E S

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1 P R O C E E D I N G S

2 TRAVIS W. ARMSTRONG,

3 having been duly sworn, testified as follows:

4 EXAMINATION BY COUNSEL FOR DEFENDANT AND

5 COUNTER-PLAINTIFF:

6 BY MR. CUPP:

7 Q. Good morning, Mr. Armstrong.

8 A. Good morning, sir.

9 Q. My name is Tim Cupp, and I represent Penny
10 Bradley in the case that currently is pending against
11 Wynn's Extended Care, Inc. in the United States
12 District Court for the Western District of Virginia.

13 I'm going to be asking you some questions
14 as the designated representative of Armstrong Auto
15 Sales, Inc., and if there are any questions I ask you
16 this morning that you don't understand, please let me
17 know because I want to make sure that we have
18 accurate answers to the questions that I present.

19 A. Yes, sir.

20 Q. I know that you have been deposed on at
21 least one other occasion, and it was in the
22 arbitration with Ms. Bradley and Credit Acceptance
23 Corporation and your company, Armstrong Auto Sales.
24 Do you recall that?

25 A. Yes, sir.

1 the contract to see if they credited it, because it
2 wouldn't be credited now.

3 Q. You know that she cancelled the contract;
4 she gave notice of cancellation of the contract;
5 right?

6 A. No, sir. What do you mean?

7 Q. In February, after she retained counsel,
8 she gave notice of cancellation of the contract.

9 MS. SADLER: Object to the extent it calls
10 for a legal conclusion.

11 BY MR. CUPP:

12 Q. Are you aware of that?

13 A. I don't believe I -- I mean, that could
14 have been something she asked for, but I don't think
15 I was made aware of that.

16 Q. Well, you received a letter from my office
17 at the end of February; right?

18 A. I believe so, yes, sir.

19 Q. And how did you take that letter? Do you
20 remember what it said?

21 A. I don't at this point, no, sir.

22 Q. And you never had any discussion with
23 anyone about how to rebate the taxes in relation to
24 the service contract?

25 A. No, sir.

1 Q. And to your knowledge, no taxes were ever
2 rebated or credited back to Ms. Bradley?

3 A. Not to my knowledge, no, sir. They
4 haven't been rebated or credited to anyone, to my
5 knowledge.

6 Q. So now I'm going back to the question
7 about the service contracts and how often in the last
8 three calendar years a Wynn's service contract was
9 initially included in a vehicle sale at Armstrong.
10 Can you give me that number?

11 A. We can get it if we take a break.

12 MR. CUPP: Okay. Let's take a break
13 because I'm about ready to move through this. I
14 think I'm getting close to the end.

15 (Pause.)

16 BY MR. CUPP:

17 Q. What I'm interested in is how often in the
18 last three calendar years a Wynn's service contract
19 was initially included in a vehicle sale at
20 Armstrong --

21 A. Okay.

22 Q. -- and the number of those transactions
23 where the vehicle was ineligible for coverage because
24 it was a hybrid. And I understand we already know
25 that.

1 we may have had one Mazda Tribute hybrid that was
2 traded in, I think. I'd have to look to be sure, but
3 very, very, very few. It's not something that I go
4 out and purchase.

5 Q. So looking at Exhibit 5, if you would --
6 that's the retail installment sales contract -- under
7 the truth in lending disclosures, it talks about the
8 annual percentage rate of 24.99 percent.

9 A. Yes, sir.

10 Q. And then the amount financed of 13,339.
11 Do you see those numbers?

12 A. Yes.

13 Q. So if the service contract was not in this
14 transaction, and therefore the amount financed would
15 have been reduced accordingly, would there have been
16 a different interest rate?

17 A. No, sir.

18 Q. So the interest rate was something that
19 was set by credit history?

20 A. Yes, sir.

21 Q. Okay. How about the monthly payment
22 amount? Would that have changed?

23 A. Well, sure, if you had a lower amount
24 financed and a given rate over a set amount of time,
25 you would have a lower payment.

1 Q. And that would be governed by whether or
2 not you were going to leave the number of payments
3 the same?

4 A. The same. Sure. I mean, we could have
5 shortened the term and raised the payment. She would
6 have paid less interest because it would have been a
7 shorter term. You know, there's a lot of different
8 ways to work it.

9 Q. So you have the ability to make the
10 determination about, you know, if you're at a certain
11 interest rate and you have a certain principal
12 balance due over a period of time, you can determine
13 how to get somebody's payments around a certain
14 figure; right?

15 A. We have the leeway to do that. But it
16 doesn't always work to our advantage. I may lower
17 someone's interest rate and it would give me less of
18 an advance. I may raise it and it gives me less of
19 an advance. I may shorten their term and it gives me
20 less of an advance. I may raise their term and it
21 gives me less of an advance.

22 It's really -- you just have to play with
23 it. And Credit Acceptance gives you the flexibility
24 to do as you wish, but that doesn't mean that they're
25 going to reward you for doing what you wish.

1 Q. When you say an advance, that means the
2 payment that they make very shortly after the
3 transaction has been finalized?

4 A. How much money we would get upfront once
5 the deal is done, yes, sir.

6 Q. So with the Bradley transaction, how much
7 time was it before you saw money in your -- in
8 Armstrong Auto's account?

9 A. We looked at this the other day. I don't
10 remember how long it took to get funded. I do
11 remember the amount of money we got was about 300
12 more than we paid for the vehicle, and we never
13 received another dime off of the car or from Penny
14 Bradley.

15 Q. When you say the amount of money you
16 received on the car, you mean from Credit Acceptance?

17 A. From Credit Acceptance.

18 Q. You already had 1,300.

19 A. Yes, as for a down payment. Once we took
20 out her tax, title, tags and all the expenses that we
21 had, that was our initial profit on the car was
22 around 3 or \$400, I believe.

23 Q. Were you the one making the determination
24 about the numbers such as the sales -- the total
25 sales price?

1 A. Yes, sir. I had control over all numbers.

2 Q. And you didn't have to get into the Credit
3 Acceptance system, did you, in order to find out what
4 those numbers would be?

5 A. The sale price, no, sir. But the rate and
6 term and payment was through Credit Acceptance.

7 Q. If the service contract had not been in
8 the transaction, would that have changed the sale
9 price?

10 A. No, sir.

11 Q. That was simply a cost of the transaction;
12 right?

13 A. The service contract?

14 Q. Yes.

15 A. Yes, sir.

16 Q. And so therefore that would change the
17 amount financed?

18 A. Yes, sir.

19 Q. When did you actually pay the state taxes
20 for the Wynn's service contract sold to Ms. Bradley?

21 A. I believe the end of that month. I think
22 we provided you a copy of that. I don't have the
23 exact date.

24 Q. I remember you did provide something to
25 me, and it appeared that it was in January of 2013.

1 A. Could have been. We --

2 MS. SADLER: Can I see that?

3 MR. CUPP: Let me have that back. You
4 know what? I'm not sure if that's subject to --

5 THE WITNESS: I believe you're correct
6 that --

7 MR. CUPP: -- any kind of confidentiality
8 or not.

9 THE WITNESS: At that time we didn't have
10 anyone really taking care of that. We hired an
11 accounting firm to come in at the end of the year,
12 and they got all of our stuff straight.

13 BY MR. CUPP:

14 Q. And you never sought a rebate of any of
15 those taxes paid?

16 A. No, sir.

17 Q. And you never told Ms. Bradley she could
18 seek a rebate?

19 A. No, sir.

20 Q. Did you provide her with any documentation
21 about when you -- until this litigation arose, did
22 you provide her with any documentation about taxes or
23 when you had paid taxes?

24 A. That's not something we provide the
25 customers. I mean, I guess technically it would have

1 been Penny's responsibility to have paid it, but
2 that's something that we did for her since she was
3 the one who purchased the warranty, not us.

4 Q. Look at Exhibit 7, the buyer's order. Do
5 you see you charged \$250 for a processing fee?

6 A. Yes, sir.

7 Q. That's because you processed the things
8 such as the payments --

9 A. No, sir. It is illegal to charge a
10 processing fee to handle a customer's taxes and tags
11 and stuff for them. A processing fee simply covers
12 my cost of the office personnel that I have,
13 paperwork, fax machines, computers, things like that.

14 Q. Okay. But you didn't have anybody else
15 working on this transaction; right?

16 A. I did have other people working for me at
17 the time, yes, sir, but I did this transaction. Now,
18 there's other people that worked that put the deals
19 together and got them funded that did the tag work
20 and things like that.

21 Q. Who are those people?

22 A. That was Terri Stephens, S-t-e-p-h-e-n-s.

23 Q. Is that a man or a woman?

24 A. Woman.

25 Q. T-e-r-r-i?